

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
WATER COUNCIL

Appeal of Stephen Andrews and John Carpenter

Docket No. 06-04-WC

RECEIVED

JUN 28 2006

MOTION TO RECUSE

NOW COMES the Appellant, Stephen Andrews, in this matter requesting that the Presiding Officer in this case, Mr. Stephen Densberger, be recused from deliberations and voting at the conclusion of the hearing.

This Motion to Recuse is being filed as a result of Appellants' review of DES Exhibit 6 which was received by the Appellants on June 24, 2006 – one day after the deadline for the Filing of Motions as established in the Pre-Hearing Conference. Consider:

1. Mr. Densberger serves as an Executive Vice President of Pennichuck Water Works.
2. DES Exhibit 6 identifies the location of a Pennichuck well facility as “Pennichuck West & East Service Area” on the shore of Canobie Lake. The facility’s presence on the Exhibit, clearly indicates that the DES believes this to be a material issue in defense of their position.
3. Upon subsequent investigation and following the receipt of the Exhibit, the Appellants learned that Pennichuck has purchased a small, shore-front parcel with the intent to draw water directly from Canobie Lake, perhaps abandoning the existing well system. Further, Pennichuck, has recently engaged in discussions with the Town of Salem (one of the parties to this case) for the purpose of purchasing water from the Town. While that


initiative was unsuccessful, the potential exists for both parties to revisit the project in the future.

It is for these reasons that we believe that Mr. Densberger may be unable to impartially deliberate and vote on this matter. We do not believe the stated conflict will affect Mr. Densberger's ability to serve as the Presiding Officer otherwise.

As this Motion is admittedly late in filing due to the late receipt of DES Exhibits, Appellants agree to extend the deadline for filing Objections to this Motion to Five days from the date hereof.

WHEREFORE, this Appellant respectfully moves that in the interest of fairness and to avoid a potential conflict of interest, that the Presiding Officer, Stephen Densberger, RECUSE himself from the DELIBERATIONS AND VOTING PORTION of this matter.

Respectfully submitted this 27th day of June, 2006.

COPY

Stephen Andrews
48 Woodvue Rd.
Windham, NH 03087
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CERTIFICATE OF SERVICE

I, Stephen Andrews, hereby certify that a copy of the foregoing Motion to Recuse was this day mailed first class, postage prepaid to: Esther Piszczek, Office of the Attorney General, 33 Capitol St., Concord, NH 03302; Gordon Graham of Soule, Leslie, Kidder, Sayward & Loughman, 220 Main St., Salem, New Hampshire 03079; and John Carpenter, 44 Woodvue Rd., Windham, NH 03087.

By: _____

Stephen Andrews

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